

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY Caption in Compliance with D.N.J.LBR 9004-1(b)	
Robertson, Anschutz, Schneid, Crane & Partners, PLLC 130 Clinton Road, Suite 202, Lobby B Fairfield, NJ 07004 Telephone Number 973-575-0707 Attorneys For Secured Creditor Kimberly A. Wilson, Esquire NJ BAR ID 031441997	CASE NO.: 22-12458-SLM CHAPTER 13 Objection to Confirmation of Debtor's Modified Chapter 13 Plan
In Re: Luul G. Asihel, Debtor.	

OBJECTION TO CONFIRMATION OF DEBTOR'S MODIFIED CHAPTER 13 PLAN

Wilmington Savings Fund Society, Fsb, D/B/A Christiana Trust, Not Individually But As Trustee For Pretium Mortgage Acquisition Trust ("Secured Creditor"), by and through its undersigned counsel, objects to confirmation of Debtor's Modified Chapter 13 Plan (DE # 62), and states as follows:

1. Debtor, Luul G. Asihel, ("Debtor"), filed a voluntary petition pursuant to Chapter 13 of the Bankruptcy Code on March 28, 2022.
2. Secured Creditor holds a security interest in the Debtor's real property located at 414 Berwick Street, Orange, NJ 07050, by virtue of a Mortgage recorded on June 12, 2007 in Book 12062, at Page 9541 of the Public Records of Essex County, NJ. Said Mortgage secures a Note in the amount of \$200,000.00.
3. The Debtor filed a Modified Chapter 13 Plan on December 29, 2022.
4. The Modified Plan proposes to cure the pre-petition arrears via a loan modification. Thus far, a loan modification has not been offered or approved by Secured Creditor. Furthermore, Debtor has failed to provide alternative treatment of Secured Creditor's Claim in the event loss mitigation is unsuccessful. Debtor is obligated to fund a Plan which is feasible to cure the arrears due to the objecting creditor within a reasonable time pursuant

to 11 U.S.C § 1322(b)(5). Therefore, in the event that any loss mitigation efforts are not successful, the plan fails to satisfy the confirmation requirements of 11 U.S.C § 1325(a)(1).

5. Secured Creditor asserts Debtor's failure to submit a loan modification is a material breach of his filed plan(s) commencing with Plan Docket 14 filed on April 19, 2022. Secured Creditor will provide every opportunity for Debtor to apply for a loan modification but objects to the unreasonable delay in Debtor's submission of the loan modification request to Secured Creditor.
6. Furthermore, while pursuing loss mitigation, Debtor's Plan fails to propose the correct monthly payments to Secured Creditor. If Debtor is pursuing loss mitigation directly with Secured Creditor, as opposed to utilizing the loss mitigation portal, then Secured Creditor requires full monthly mortgage payments in lieu of adequate protection payments to Secured Creditor.
7. Additionally, the Plan fails to accurately state the arrears owed to Secured Creditor. Secured Creditor's timely filed Proof of Claim 2-1 shows the pre-petition arrears due Secured Creditor is \$137,971.88. Therefore, the Plan is not in compliance with the requirements of 11 U.S.C. §§ 1322(b)(3) and 1325(a)(5) and cannot be confirmed. Secured Creditor objects to any proposed Plan that fails to provide for the total amount of pre-petition arrears due and owing to Secured Creditor.
8. Moreover, the Modified Plan does not account for the post-petition arrears in the amount of \$4,235.36 that were to be capitalized in the Plan per the Order Resolving SC's MFR (DE # 50).
9. Based on Debtor's Schedules, the Plan does not appear feasible due to the representation that sufficient disposable income is not available to support the proposed Plan payments in the event loss mitigation is unsuccessful. Thus, the plan violates the provisions of 11 U.S.C. § 1325(a)(6) and cannot be confirmed.

WHEREFORE, Secured Creditor respectfully requests this Court sustain the objections stated herein and deny confirmation of Debtor's Plan, and for such other and further relief as the Court may deem just and proper.

Robertson, Anschutz, Schneid, Crane & Partners,
PLLC
Attorney for Secured Creditor
130 Clinton Road, Suite 202, Lobby B
Fairfield, NJ 07004
Telephone: 973-575-0707
Fax: 973-404-8886

By: /s/Kimberly A. Wilson
Kimberly A. Wilson, Esquire
NJ Bar Number 031441997
Email: kimwilson@raslg.com

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In Re: LUUL G. ASIHEL Debtor.	

CERTIFICATION OF SERVICE

1. I, Swati Patel, am employed by the firm who represents Wilmington Savings Fund Society, Fsb, D/B/A Christiana Trust, Not Individually But As Trustee For Pretium Mortgage Acquisition Trust in this matter.
2. On January 27, 2023, I caused a copy of the following pleadings and/or documents to be sent to the parties listed in the chart below:

Objection to Confirmation of Debtor's Chapter 13 Plan
3. I certify under penalty of perjury that the above documents were sent using the mode of service indicated.

1/27/2023

Robertson, Anschutz, Schneid, Crane & Partners,
PLLC
Attorney for Secured Creditor
130 Clinton Road, Suite 202, Lobby B
Fairfield, NJ 07004
Telephone: 973-575-0707
Fax: 973-404-8886
By: /s/Swati Patel
Swati Patel

<u>Name and Address of Party Served</u>	<u>Relationship of Party to the Case</u>	<u>Mode of Service</u>
Law Offices of Avram D White, Esq 66 Hampton Terrace Orange, NJ 07050	Attorney for Debtor	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)
Luul G. Asihel 414 BERWICK STREET ORANGE, NJ 07050	Debtor	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)
Marie-Ann Greenberg 30 Two Bridges Rd Suite 330 Fairfield, NJ 07004-1550	Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)
U.S. Trustee One Newark Center Ste 2100 Newark, NJ 07102	U.S. Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)